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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,140	07/07/2003	Curt Robert Loch	LOCH 1	3097

7590 05/05/2005

CURT LOCH
1977 LOOKING GLASS WAY
UPLAND, CA 91784

EXAMINER

NOVOSAD, JENNIFER ELEANORE

ART UNIT PAPER NUMBER

3634

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/614,140

Applicant(s)

LOCH, CURT ROBERT

Examiner

Jennifer E. Novosad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
4a) Of the above claim(s) 8 and 19 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,2,7,11-17 and 20-24 is/are rejected.
7) ☒ Claim(s) 3-6,9,10 and 18 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date 04-29-2005
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

This final Office action is in response to the amendment filed February 18, 2005 by which claims 1, 3, 10, 11, 12, 13, and 20 were amended.

Election/Restriction

Claims 8 and 19 *stand* withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 12, and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the width dimension" in lines 11-12. There is insufficient antecedent basis for this limitation in the claim. It is noted that the deck has been set forth as having a *width* in line 3 and the support member has been set forth as having a *width* in line 9. This rejection is also applicable to claim 12 (see line 16) and claim 20 (see line 12). *Further*, the language of the limitation "at a distance perpendicular to the width dimension that is greater than the skateboard deck thickness" in these claims, renders the claims indefinite and thus the structural relationship between the elements is unclear, i.e., which width dimension is greater than the deck thickness?

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 7, 9, 12-17, and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,293,412 (Draper '412).

Draper '412 discloses a skateboard rack in combination with a skateboard (see Figure 3); the skateboard comprising a deck (12), a pair of axles (16) mounted on the deck (12) and with wheels (14), the skateboard having a wheelbase, i.e., the distance between the wheels, a deck thickness (i.e., front to back in Figure 3), a deck width (i.e., left to right in Figure 3), and a height defined between the wheels at the top of the deck to the wheels at the bottom of the deck; the rack comprises a pair of spaced apart U-shaped support members (26A and 26B) having a base (22A, 22B, 24, and 38) *adapted to mount to a base surface (such as a wall, at 22A and 22B)* and a portion (at 28A and 28B) that extends away from the base (22A, 22B) at a height dimension (i.e., A - as labeled by applicant in the appendix filed with the amendment of February 18, 2005) and defining a slot between the support members (from left to right in Figure 2); the bases of the support members being common (i.e., the bases 22A and 22B share element 24) and the bases comprises a pair of spaced apart strips (24 and 38) to which opposed ends of the support members attach; a first one of the support members (26A) having a maximum width dimension (i.e., left to right in Figure 2 - between the vertically disposed side edges of 22A) that is smaller than the skateboard wheelbase (see Figure 3); *insomuch as the claims are best understood (in*

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view of the Section 112, 2nd paragraph rejection, advanced above), the support members are mounted in parallel to one another at a distance apart (i.e., C- as labeled by applicant in the appendix filed with the amendment of February 18, 2005) that is perpendicular to the deck thickness and is also greater whereby the distance the support members are separated (C) is greater than the deck thickness but less than the height of the skateboard (see Figure 3); a locking structure (32, 40, 42), defining a lock, including elements coupled to both support members (26A and 26B); *with respect to claims 13-16*, a third, (fourth and fifth) support member (see Figure 5) identical to the first member is mounted parallel thereto and on the opposite side of the second member whereby the third member is spaced a distance from the second member that is greater than the deck thickness but less than the deck height; *with respect to claims 20*, the mounting base is considered to be portable since the base can be moved, i.e., it is not permanently attached/affixed to any structure; *with respect to claim 23*, the width (side to side) of the first support member (26B on the left side of Figure 1) is larger than the width (front to back) of the other support member (26B).

The claims differ from Draper '412 in requiring a portion of the support members to extend away from the base to a height dimension that is at least as great as the deck width (claims 1, 12, and 20).

Although Draper '412 does not disclose the height dimension of the support members, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the height dimension at least as great as the deck width, for increased support, stability, and securement of the skateboard therein.

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Allowable Subject Matter

Claims 3-6; 9; 10; and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection. The new grounds of rejection were necessitated by the amendment reciting "perpendicular to the width dimension" and "but less than the skateboard height" in claims 1, 12, and 20.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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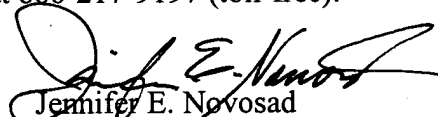
however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is 571-272-6832.

The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jennifer E. Novosad
Primary Examiner
Art Unit 3634

Jennifer E. Novosad/jen
April 29, 2005